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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/365,081	07/30/1999	LEE D. BENGSTON	RIC-99-030	1345

25537 7590 10/22/2002

WORLD COM, INC.
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW
WASHINGTON, DC 20036

EXAMINER

SHAH, CHIRAG G

ART UNIT	PAPER NUMBER
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2664

DATE MAILED: 10/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/365,081

Applicant(s)

BENGSTON ET AL.

Examiner

Chirag G Shah

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. **Claims 1-7 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-42 of Sees (U.S. Patent No. 6,222,821) in view of Russ (U.S. Patent No. 5,623,481).**

The U.S. Patent No. 6,222,821 discloses all the claimed subject matter except storing the mapped data in the central processing and continuously updating the status of the messages arriving at each spare port of the nodes of the network. Russ teaches in claim 1 and columns 1 and 2 and respective portions of the specification that (OSS)

operations support system of the telecommunications network retrieves from each of the end nodes that it continuously monitors a messages that contains an identification information of the end nodes, thus when a fault occurs at one of the links connecting adjacent nodes, OSS receives the information. Russ further teaches of central processing means connected to each end node and compares path verifying message with the stored path verifying messages in restorative process in response to a failure of a communication link. Therefore, it would have been obvious to one skilled in the art to include a central processing means and a continuous monitoring of messages as taught by Russ in order to manage the network without disrupting of traffic by confirming that all new spare links has received updated information.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7 rejected under 35 U.S.C. 103(a) as being unpatentable over Sees in view of Russ.

Referring to claims 1 and 4-7, Sees teaches in figure 1 and respective portions of the specification a telecommunications network having four links connecting node 8 to node 14. Two of these links, are working links and the other two links are spare links. The nodes of the network are monitored by an Operations Support System (OSS). Sees teaches in figure 2, if a fault occurs, there is a detector at the interface unit where the interfacing ports are for each of the nodes, the fault at the location is detected by both nodes. When the port of node detects a malfunction on link, it reports this to the OSS as an alarm. Sees also discloses in columns 7 and 8 that alternate route based on the spare links includes not one but several tandem nodes as shown in figure 3. In other words, for example (figure 3) when performing the restoration process, the sender node 4 could not send any flooding messages to node 6. Rather, as shown, the only node to which it can send flooding messages is adjacent node 18, which is shown to have two spare links S1 and S2. Note that alarms clear once malfunctioned working links is respired, upon receipt of the repaired signal, OSS sends to each of the custodial nodes. Thus, Claims 1-42 in Sees invention, addresses all the limitations set forth in the present application in specifically in claims 1, 4, 5, and 7. Sees fails to include storing the mapped data in the central processing and continuously updating the status of the messages arriving at each spare port of the nodes of the network. However, Russ teaches in claim 1 and columns 1

and 2 and respective portions of the specification that (OSS) operations support system of the telecommunications network retrieves from each of the end nodes that it continuously monitors a messages that contains an identification information of the end nodes, thus when a fault occurs at one of the links connecting adjacent nodes, OSS receives the information. Russ further teaches of central processing means connected to each end node and compares path verifying message with the stored path verifying messages in restorative process in response to a failure of a communication link. Sees also fails to explicitly disclose of a messages transmitted between adjacent nodes that includes a first field containing the identification number of the node that sent the message, a second field containing the identification number of the port of the node whence the message is output and a third field having an identifier that is set to a specific value when the node is a custodial nodes that bracket a failed link, wherein the message is broadcast from one of the custodial nodes that bracket a failed link. Russ discloses in columns 2-6 that new Path Verification Circuit Identification Number (PVCID) is transmitted between adjacent nodes of the network that are connected by at least one spare link for mapping the topology of the spare capacity of the network that contains ID number of the node, port and information of custodial nodes that bracket a failed link. Therefore, it would have been obvious to one skilled in the art to modify Sees invention to include teaching of Russ in order to update the status of nodes to restore the network to normal working condition using spare links.

Conclusion

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703)305-3988, (for formal communications intended for entry)

Or:

(703)305-3988 (for informal or draft communications, please label
"Proposed" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal
Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Chirag G Shah whose telephone number is 703-305-
5639. The examiner can normally be reached on M-F 7:30 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Wellington Chin can be reached on 301-305-4366. The fax phone numbers
for the organization where this application or proceeding is assigned are 703-872-9314
for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of the application or
proceeding should be directed to the receptionist whose telephone number is 703-305-
3900

Cgs
August 29, 2002

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